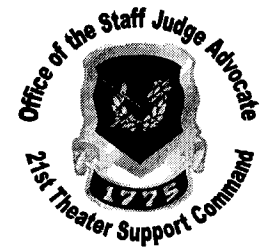




REMARRIAGE HANDOUT



Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

If an individual remarries after a divorce, particular care should be exercised to change all personnel and insurance records to reflect the change in marital status. Cases abound in which a divorced spouse has collected insurance proceeds, although the marriage relationship was dissolved for a number of years, and the obvious intent of the insured was to make a second spouse the beneficiary.

When restrictions are imposed in a divorce decree or by statute, either as to time before remarriage is permitted or as to remarriage without permission of the court, the attempted remarriage of a person within such time is unwise and may create serious problems. If a second marriage is contracted within the divorcing state in violation of the of the decree's prohibition, the marriage is usually not valid. If the service member goes to another state to remarry in violation of the restrictions, but retains domicile in the state which granted the divorce, most states would hold the remarriage invalid to the same extent as in the state of domicile. However, if the service member makes a legitimate change of domicile to the state in which the remarriage occurs, the remarriage usually will be recognized except possibly in the state which granted the divorce.

Military and federal civilian authorities have taken the position that if a person is divorced in one jurisdiction and remarries in another jurisdiction that did not grant the divorce, and then a doubt arises as to the validity of the remarriage, the remarriage will not be recognized for purposes of authorized increased allowances in the absence of a judicial determination of the validity of that marriage or a showing of valid ceremonial or common law marriage after expiration of the time required before remarriage.

Cases have been reported in which a service member honestly, but mistakenly, believed he or she had been divorced from a previous spouse. The mistake may have been based on correspondence with the other spouse or with the service member's attorney. To avoid difficulties arising from such mistakes, the service member should secure a copy of the decree of the final divorce and receive qualified legal advice on any restrictions on remarriage prior to entering into a subsequent marriage.

Additionally, the remarriage of the ex-spouse of a service member may reduce his or her benefits. Remarriage may eliminate or reduce this ex-spouse's retirement and pension benefits, so be sure to seek legal advice before remarrying in order to examine your benefit status after remarriage.

For further information, contact the Legal Assistance Office, Stuttgart Law Center, DSN 421-4152, Civ 0711-729-4152.

REVIEWED BY: CPT Michael Watts, Chief, Client Services
DATE: 28 June 2005

References:

http://usmarriagelaws.com/search/united_states/divorce_laws/divorce_and_remarriage/index.shtml